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May 1, 2019

The Honorable Ajit V. Pai
Chairman
Federal Communications Commission
445 12th Street, N.W.
Washington, DC 20554 (via email and ECFS)

Re: FM Translator Interference – MB Docket No. 18-119
Request for Removal of Item from May 9, 2019 Meeting

Dear Chairman Pai:

I am writing to request a postponement in the FCC's vote on the April 19, 2019 draft Report and Order (FCC-CIRC1905-03) as I believe that there is a lack of supporting engineering data for the conclusion that a *balanced* decision is reached in this proceeding.

I am a full-service FM and translator licensee, and a technical consultant who has assisted hundreds of full-service and FM translator stations in facility development and FCC filings over several decades. My work is a matter of record at the FCC.

My concern is the lack of supporting engineering data regarding the effect of the 45 dBu contour complaint limit upon FM translators coupled with the new strict FCC remediation procedures.

The Commission states at paragraph 1 that its goal is "provide translator licensees [with] additional investment clarity …". The Commission at paragraph 4 asserts that it is (emphasis added):

> [c]larifying the process and ***balancing*** the interests of the various services involved … we must not only ***balance*** the needs of translator, low power FM and full-service licensees, but also [the technical integrity of the FM band]. We believe that the measures adopted herein ***strike a balance*** between managing FM band spectrum, providing greater certainty for translator operators, and preserving existing protections for full-service stations … .

While the Commission at paragraphs 36-40 cites the submission of listener data for full-service stations in setting the 45 dBμ contour limit for translator interference complaints, there is no data whatsoever cited as to the effect of that contour on FM translators when coupled with the FCC's new stringent interference remediation procedures.

For the Commission to "balance" the interests between full-service stations and FM translators, data regarding the effect of the rule change upon FM translators is required to document the interference relationship between full-service stations and FM translators, or at least for a large representative sampling.

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Attached is a chart evaluating the risk of the 45 dBu contour limit with the FCC's new strict interference remediation procedures to ten (10) FM translators in the central Louisville, KY radio market. As shown in this chart, the FCC's chosen protected 45 dBμ contour for full-service would put into jeopardy the continued, viable service from nine of the ten currently-authorized Louisville market FM translator stations from potential interference complaints under the FCC's strict new procedures. If interference complaints were pursued under the FCC's new procedures, six would be ordered to discontinue operations. Three would be forced to power levels ranging from five to twenty-one watts ERP. Only one would not be in jeopardy from a full-service station interference complaint.

A shutting down or dramatic reduction in nine of the ten Louisville[1] market FM translator stations is not a balance which comports with the stated FCC goal of providing FM translator licensees with "additional investment certainty".

Under the combined effects of the extreme 45 dBu contour limit and non-recourse complaint procedures, some full-service stations may "game" the system to obtain complaints that once established are not subject to challenge. Had the FCC simply imposed an FM translator complaint contour limitation upon full-service stations keeping in place its existing rules and procedures, FM translators would not be *further* harmed by the proposed Report and Order. Now, however, a full-service station wishing to eliminate an FM translator for any reason will be able to work backwards under the new procedures by first identifying the area in which there will be, as an engineering matter, predicted interference. Then, the full-service station simply identifies listeners who, at least twice a month, drive or travel through that predicted interference area, and obtains from such listeners the required signed form. If, after signing the form the listeners are instructed to say nothing more and accept no interference remediation (and they certainly will be so instructed), then under the FCC's new strict procedures, the only interference remediation possible is a substantial facility change or cessation in operations for the besieged FM translator. This represents a lethal weapon for overzealous stations seeking to protect the "owner's contour" or eliminate competition.

The FCC has an obligation to base its decision-making upon complete data for both full-service stations and for FM translators, particularly when it is balancing interests such as in this proceeding where small AM broadcasters owning FM translators who can least afford it may have their investments irredeemably quashed. Because the FM translator data upon which the balancing of interests should take place is most notably lacking, that data-generating task should fall to the engineers in the FCC's Audio Division. Only by having in the record the percentage of currently-authorized FM translators that will be *prima facie* subject to interference complaints under the Commission's choice of outer contour can the Commission fairly and accurately engage in the balance it wishes to make in this FM translator proceeding.

The full-service FM station data in this proceeding's record is purported radio listening audience data outside the protected contours of FM stations. In commenting upon the integrity of the

[1] Louisville, KY was chosen based on the author's familiarity with that market. Anecdotal examination of several other situations reveals similar risks.

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data that the Commission is using to balance the equities in this proceeding, I would be remiss if I did not note that much of that audience data is based on audience "cume" (5 minutes listening per week) and zip code centroids for "panelists home addresses" (see Beasley Media Corporation, et al Comments at footnote 13). Such data appears to be approximate at best and probably misleading given the size of zip code areas and the supposition that the majority of listening occurs at the home address. Since these data are from the larger ppm markets it seems reasonable to expect that much of the 5 minute "cume" listening is spent in transit to those markets.

For instance, I examined the relation of zip codes to 45 dBu, 48 dBu and 51 dBu (F50,50) contours for stations WSM-FM in Nashville, TN and WAMZ(FM) in Louisville, KY. Many of the zip code boundaries spanned 6 dB between predicted contours. It seems reasonable to expect similar results elsewhere and casts doubt upon using zip codes as a metric for determining where radio listening is occurring. It would appear that a more precise methodology of radio listening should be used to establish a complaint cutoff contour.

Finally, the provision of a "waiver" process based upon that questionable audience data is further troubling. The waiver process as formalized in the new procedures would, in effect, nullify the set contour limit since waiver showings will inevitably use Longley-Rice or other alternative showing that are subject to manipulation.

It is also important to note nonetheless my appreciation to the Commission for greatly increasing the availability of FM translators to AM stations. These actions have been a resounding success and have preserved and expanded the service of many stations. The window filings and application processing could not have been more expeditious or professional. Furthermore, the proposal to permit any channel modifications in the same band to resolve interference issues is an important and welcome additional step. I urge its immediate adoption, bifurcating that portion of the proposal from the portion with inadequate data if needed.

Accordingly, it is respectfully requested that the Commission postpone its decision in this MB Docket No. 18-119 and specifically with respect to the proposed contour and listener complaint procedure until such time as the Commission has sufficient data upon which to base its decision balancing the stated interests.

Respectfully submitted,

Charles M. Anderson

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LOUISVILLE, KY
TRANSLATOR ANALYSIS

FM translators in the non-reserved band serving the core Louisville market (within 25 km) were analyzed to determine the change in ERP required to their existing facilities to disprove an interference complaint based on U/D ratio lodged by their closest facility (station, LPFM or translator) co-channel or first adjacent at its 45 dBu (50:50) contour.

Translator	Closest relevant facility	45 dBu contour protection limited ERP[1]
W222CD-CP[2] (250W-DA)	WTTS (co)	250 Watts
W236AN (200W)	WIKI (1st adj)	0 Watts
W241CK (250W)	WSTO (co)	18 Watts
W250BD (250W DA)	WSLM (co)	21 Watts
W257EM-CP (250W-DA)	WKMO (co)	0 Watts
W261CO (250W DA)	WNGT(CP) (co)	0 Watts
W270CR (150W)	WKRQ (co)	5 Watts
W274AM (55 W)	WOKH (1st adj)	0 Watts
W284AD (99 Watts)	WITZ-FM (co)	0 Watts
W297BV (220W-DA)	WRZI (co)	0 Watts

At the proposed 45 dBu contour limit, six (6) could not survive at their existing sites, three would survive with extremely diminished facilities insufficient to serve the core Louisville market and one would be unchanged.

April 30, 2019 Charles M. Anderson

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[1] Facilities were evaluated using their authorized site and antenna system, FCC U/D interference ratios (-20 dB co-channel and -6 dB 1st adjacent) and the Globe 30 second terrain database. Indicated ERP is that required to prevent overlap with the protected facility's 45 dBu contour.

[2] Also at risk to first adjacent translator CP W223DK.